

**FY 2010 PERFORMANCE OVERSIGHT HEARING FOR THE DEPARTMENT OF INSURANCE,
SECURITIES AND BANKING**

**TESTIMONY OF
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OF THE
DEPARTMENT OF INSURANCE, SECURITIES AND BANKING

BEFORE
THE COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE ON PUBLIC SERVICES AND CONSUMER AFFAIRS**



**March 14, 2011
1350 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20004**

Good Afternoon Chairperson Alexander, Members of the Committee, and Committee Staff. I am William P. White, Acting Commissioner for the Department of Insurance, Securities and Banking (“DISB” or “Department”) and I am pleased to be here today to testify on the performance of our agency during Fiscal Years 2010 and 2011 to date.

OVERVIEW

DISB was established in 2004 by reform legislation which merged the Department of Banking and Financial Institutions and the Department of Insurance and Securities Regulation into a unified agency. The Department is responsible for regulating insurance, securities, banking, and most other financial services companies that transact business in the District.

The Department’s current operating bureaus include: The Insurance Bureau, Securities and Banking Bureau, Risk Finance Bureau, and the Enforcement and Consumer Protection Bureau. In Fiscal Year 2010, the Department was authorized 111 FTEs to perform the regulatory work of DISB. The Department’s budget in Fiscal Year 2010 was \$16,327,004.00, and as always, is funded through assessments, licensing, filing, and other fees paid by the entities we regulate.

The Department’s mission is two-fold: (1) to provide fair and efficient supervision of financial service activities for the protection of the residents of the District of Columbia, and (2) to create conditions that will attract and retain national and international insurance, securities, banking, and other financial service businesses to the District of Columbia. The Department has worked continuously to implement and

support various initiatives aimed at advancing both segments of DISB's mission including a rigorous review of its organizational structure and processes.

CONSUMER PROTECTION

In FY 2010, the Department aggressively pursued its primary mission of consumer protection. Our staff worked to protect the residents of the District, particularly our seniors and other vulnerable groups, from financial frauds and scams related to insurance, securities, and banking activities. The Department believes that the best way to protect consumers from unscrupulous activity is to educate them on the financial products that are being sold in the marketplace, and provide consumers with the information necessary to enable them to make educated choices. During FY2010, the Department attended several community events with the purpose of empowering our residents with information about financial services.

A separate significant function of the Department's consumer protection mission is the solicitation, intake, and processing of consumer inquiries and complaints filed against the insurance, securities and banking entities doing business in the District of Columbia. The Department's Consumer Services Division of the Enforcement and Consumer Protection Bureau ("Enforcement Bureau") has worked to improve its response time to consumers with 97% of complaints closed within 45 days in 2010, up from 95% in 2009, and 75% in 2008. The remedies sought by our consumers are varied and case-specific, ranging from foreclosure avoidance to reconsideration or review of filed claims and contested claims payments. In the latter category, the Enforcement

Bureau recovered over \$489,000 on behalf of consumers in Fiscal Year 2010, and thus far in Fiscal Year 2011, we have recovered over \$123,000.

The Enforcement Bureau in FY 2010 received 388 referrals for investigation based on allegations of insurance, securities, and financial fraud in FY 2010. A total of 366 referrals were closed, resulting in court-ordered restitution to victims totaling over \$1.3 million dollars. Thus far in FY 2011, restitution totals \$232,976 and defendants have been sentenced to 48 months of incarceration, 200 hours of community service, and 142 months of supervised probation.

DISB collaborates with the Federal Bureau of Investigation and US Postal Service to investigate financial frauds and has an excellent relationship with the United States Attorney's office related to the prosecution of financial services fraud cases. DISB also has a robust insurance agent enforcement unit in the Enforcement Bureau that investigates District resident and nonresident insurance agents and brokers that are accused of misconduct or disqualifying activities.

The Department also has worked to broaden its consumer advocacy efforts, ramping up our interactions with communities throughout the District. In FY 2010, the Department, in conjunction with the Federal Deposit Insurance Corporation, Securities and Exchange Commission, and Federal Reserve, held town halls in Ward 8 and Ward 4 to discuss issues of importance to residents. These town halls were well attended and were televised on Channel 16. In FY 2011, the Department plans to conduct two additional town halls in different wards. Also, in FY 2010 and FY 2011 to date, DISB delivered several consumer-specific presentations around the City that addressed the

impact of the federal health care reform law, flood insurance, senior fraud issues, affording retirement, and more, all through DISB's highly requested speakers' bureau.

INSURANCE BUREAU

In FY 2010, the majority of the work of the Insurance Bureau was focused on health care reform. In March 2010, President Obama signed into law the Patient Protection and Affordable Care Act. While the private insurance market and the oversight work of DISB comprise a large focus of the Act, there are also provisions of the Act that will impact the work of multiple District of Columbia agencies and impact our public health programs including Medicaid & Medicare.

The health insurance reforms of the Act aim to expand health insurance coverage to millions of Americans. Over the next four years, our insurance markets will see changes in the method and manner that healthcare coverage is provided and sold, how coverage is financed, and how covered services are paid for by insurers. These changes will require a large number of modifications to health insurance products and the regulations that govern them. By 2014, the District must establish a health insurance exchange to assist consumers in obtaining coverage. In this same year, individuals who can afford coverage will be required to maintain health insurance coverage or pay a fine to the federal government.

The federal Department of Health & Human Services is providing grants to assist states in the implementation of Health Care Reform. DISB has received a \$1 million grant for FY11 to assist in the health insurance rate review process. The grant funds are being used to conduct a review of our existing health insurance rate making laws and

regulations, including hiring additional staff and providing outreach to the residents of the District of Columbia to help them better understand health insurance rates. Because of the volume of work involved in implementing the insurance aspects of health care reform, DISB has created and filled a new position, Health Care Policy Analyst, to work on health care reform full time.

Also, to ensure the smooth implementation of health reform in the District of Columbia, a Health Reform Implementation Committee (“HRIC”) was established by Mayor’s Order. Four cabinet members were appointed to the HRIC. The co-chairs are the Commissioner of Insurance, Securities and Banking and the Director of the Department of Health Care Finance. The Director of the Department of Health and the Director of the Department of Human Services also serve as members of the HRIC. The HRIC’s main function is to advise the Mayor on implementation of the health care reform laws, and to coordinate its execution in the District of Columbia. Staff at all four agencies provide administrative, clerical, and technical support.

In FY 2010, the Insurance Bureau and Risk Finance Bureau were reviewed by the National Association of Insurance Commissioners (“NAIC”) and received an extension of DISB’s accreditation for five years. The review looked at the laws, procedures, and staff utilized by these Bureaus to monitor the financial solvency of our domestic insurance companies and captive risk retention groups. A successful review and continued accreditation is necessary for other NAIC jurisdictions to be able to rely on the solvency monitoring of District of Columbia domiciled companies doing business in their states.

SECURITIES AND BANKING BUREAU

The Department's Securities Division protects the interests of investors by ensuring that broker-dealers, investment advisers, and their agents and representatives, are qualified to conduct business in the District of Columbia. DISB staff processes applications for securities licenses, screens potential licensees, conducts examinations of licensed securities firms and responds to public inquiries and complaints regarding broker-dealer firms, broker-dealer agents, investment adviser firms, and their representatives operating in the District of Columbia. In addition, DISB staff reviews applications for registration of securities offerings and processes notice filings of exempt securities offerings.

During FY10, the Department participated in several nationwide settlements regarding the alleged unlawful selling of Auction Rate Securities ("ARS"). A number of state securities regulators, including DISB, received complaints from investors who had purchased ARS. To date, the Department has received \$2.9 million dollars in fines related to these securities and has required settling firms to make restitution offers of more than \$720 million dollars to investors.

The Department's Banking Division has increased its efforts to improve efficiency in regulating the District's financial institutions, while continuing to provide valuable, consumer-driven initiatives on behalf of District residents. The Department joined the newly created Nationwide Mortgage Licensing System ("NMLS"). The use of the NMLS by state mortgage regulatory agencies was mandated by the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 ("SAFE Act"). The SAFE Act requires that

all mortgage loan originators be either federally registered or state-licensed through the NMLS in order to engage in the mortgage business. NMLS brings greater uniformity to the state regulation of the mortgage industry and increases the Department's ability to supervise licensees by making nationwide enforcement actions available to member states. Additionally, NMLS has been designed to streamline the licensing process, improve regulatory supervision, and increase transparency.

The Banking Division also continues in its efforts to provide assistance to our residents facing foreclosure by fielding approximately 50 calls or online requests for foreclosure-related assistance each week, and by participating in outreach meetings to explain the foreclosure process. In FY 2011, the Council passed the Saving D.C. Homes from Foreclosure Act of 2010, giving District residents the option of pursuing mediation with their lenders before a Notice of Foreclosure is filed. The Department has been working with stakeholders to finalize the rulemaking for the mediation process. Simultaneously with the development of rules, the Department has been working to set up the Foreclosure Mediation Program that will provide mediation services to borrowers and lenders. The Department will need to appoint personnel to staff the office of the Mediation Administrator. While the Department plans to enter into a Memorandum of Understanding with the Office of Administrative Hearings for mediator services, the Department will need to procure additional mediators to handle the backlog of foreclosure proceedings and mortgage defaults that were created when the Act was enacted on an emergency basis.

In FY11, federal legislation also will impact the work of the Securities and Banking Bureau. On July 21, 2010, the President signed into law the Dodd-Frank Wall Street Reform and Consumer Protection Act (“the Act”). The Act made major changes to the supervision and regulation of financial services. One major impact of the Act is that the Department will see an increase in the number of investment advisers licensed by the Department because the Act increases the assets under management threshold from \$25 million to \$100 million. The Act also may increase the authority of the District over national banking institutions as a result of the Act’s limitation on preemption with respect to federal banks.

This fiscal year, expanding banking services throughout the District will be a key area of focus. DISB plans to work with the Council to develop an incentive package to increase the number banks chartered in the District and the number of branches in unbanked and under-banked communities.

CAPTIVE INSURANCE COMPANIES

The District has established itself as one of the premiere jurisdictions for captive insurance company formations in the U.S. In FY 2010, DISB licensed 20 new captive insurance companies, and three new companies in FY 2011 to date. In addition to the three captives already licensed this fiscal year, DISB has one captive insurance company application pending and seven companies have committed to forming captives in the District, and are currently working on applications. We expect to receive these applications by the end of March or early April. Furthermore, DISB is receiving multiple inquiries from businesses interested in forming captives in the District this year. In FY

2010, DISB licensed captive insurers owned by several nationally known companies, including CHS, Inc., a Fortune 100 energy, grains and foods company based in Minnesota; a professional legal liability insurer, which is a subsidiary of Warren Buffet's Berkshire Hathaway; Millennium Hotels, which owns, manages and/or operates over 100 five star hotels worldwide; and a captive recently formed by Amtrak. These companies are a perfect fit for the District with its small size and highly educated workforce. New businesses also lease office space within the District, and pay District taxes. I look forward to continuing to license new captive insurers in FY 2011 and to the continuing economic development benefits this industry provides to the District.

CERTIFIED CAPITAL COMPANIES AND CAPITAL ACCESS

In recent years, the Council and the Department have made several significant changes to improve oversight of the Certified Capital Company ("CAPCO") program. The Department is in the process of selecting a contractor to conduct an economic study assessing the economic impact of the CAPCO program on the District of Columbia's economy. In FY 2010, the CAPCOs made investments in eight businesses located in the District. Those businesses received \$1.9 million dollars in CAPCO funding. To date, the CAPCOs have provided approximately \$27.7 million dollars to 31 local businesses.

Also, DISB is optimistic that District businesses will have additional options for capital with the passage of the Small Business Credit Initiative Act of 2010, which was signed by President Obama on September 27, 2010. This law created the State Small Business Credit Initiative and appropriated \$1.5 billion to the Department of the Treasury to be provided to the States and the District to increase credit for small

businesses. DISB is currently working on an application to secure the District's share of those funds, which will equal \$13.5 million and will be used to provide banks and other financial institutions with an incentive to make loans and extend lines of credit to District businesses.

CONCLUSION

In conclusion, DISB is encouraged by our accomplishments in FY 2010, and look forward to surpassing our efforts in the coming year. We will continue to protect and assist District consumers who utilize the services we regulate and we will continue to be accessible to the public through public outreach and increased print and broadcast media.

Thank you again for providing the opportunity for me to testify on the performance of the DISB. I am happy to answer any questions you may have.

